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 D. Barneburg, A. Murphy and N. Bramucci*

IN THE UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 SAN JOSE DIVISION

DONNIE PHILLIPS,

Plaintiff,

v.

BRAMUCCI, et al.,

Defendants.

C 15-01533 EJD (PR)

**STIPULATION AND ~~PROPOSED~~
 ORDER FOR VOLUNTARY DISMISSAL
 WITH PREJUDICE AS TO DEFENDANT
 A. BARNEBURG AND ADDITION OF
 DEFENDANT D. BARNEBURG AS A
 PARTY TO THIS LAWSUIT**

Judge: Honorable Edward J. Davila

Action Filed: April 3, 2015

On July 29, 2015, Plaintiff Donnie Phillips served Defendant Barneburg, without reference to a first name or initial. The California Department of Corrections and Rehabilitation (CDCR) therefore accepted service on behalf of A. Barneburg. On October 13, 2015, defense counsel spoke with A. Barneburg concerning this action, and A. Barneburg informed counsel that the proper defendant in this case should be D. Barneburg, who was also employed by CDCR as a Correctional Lieutenant at the relevant time and place at issue in this lawsuit. CDCR was also able to confirm this information with D. Barneburg.

On October 27, 2015, Plaintiff Phillips and counsel for Defendants R. Swift, T. Puget, C. Ducart, R. Tupy, D. Barneburg, A. Murphy and N. Bramucci discussed and resolved this matter.

Accordingly, in the interests of judicial economy and to conserve the parties' and the Court's resources, the parties stipulate as follows:

1. Defendants accept Phillips's original service of his summons and complaint on behalf of Defendant D. Barneburg.

2. Defendants' Answer, filed on September 21, 2015, is effective as to Defendant D. Barneburg.

3. The parties having resolved this case in its entirety regarding Defendant A. Barneburg, stipulate to a dismissal of this action as to A. Barneburg with prejudice, under Federal Rule of Civil Procedure 41(a)(1)(A)(ii).

Each party shall bear its own litigation costs and attorney's fees.

IT IS SO STIPULATED.

Dated:

10-27-2015

Donnie Phillips
Donnie Phillips

Plaintiff in *pro per*

Dated:

10-27-2015

/s/ Marisa Y. Kirschenbauer

Marisa Y. Kirschenbauer
Supervising Deputy Attorney General
California Attorney General's Office
Attorney for Defendants R. Swift, T. Puget, C. Ducart, R. Tupy, D. Barneburg, A. Murphy and N. Bramucci

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~~[PROPOSED]~~ ORDER

In accordance with the parties' stipulation, Plaintiff Phillips's action against Defendant A. Barneburg is dismissed with prejudice. Further, Defendant D. Barneburg is considered to have been properly served, and Defendants' Answer shall apply on his behalf.

IT IS SO ORDERED.

Dated: _____

11/3/15



HON. EDWARD J. DAVILA
United States District Judge

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